

JAN 29 2018

OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT L. HARRINGTON, PRO SE — PETITIONER
(Your Name)

vs.

THOMAS WINN, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MICHIGAN COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROBERT L. HARRINGTON, PRO SE
(Your Name)

9625 PIERCE ROAD
(Address)

FREELAND, MI 48623
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. DID STATE A FEDERAL COURTS RULE ON PETITIONER'S 5TH AM. JURISDICTION CLAIM CONTRARY TO THIS COURT REPEATED DETERMINATION RE: SPECIFIC-CONDUCT INFO - SUBJECT MATTER CONSTITUTIONAL JURISDICTION NECESSITY, AND CONFLICT 2ND, 5TH-11TH USCOA CIRCUITS RE: OFFENSE FACTS.
2. WAS PETITIONER DEPRIVED OF HIS 6TH AM. RIGHT TO PUT FOURTH A PROPER DEFENSE, WITHOUT SPECIFIC CONDUCT OFFENSE NATURE AND CAUSE ACCUSATION INFO, DOES THIS CONFLICT WITH THIS COURT DETERMINATION.
3. DOES PETITIONER HAVE A RIGHT TO BE FREE FROM HIS SECOND HABITUAL GUILTY PLEA PROSECUTION FOR NON OFFENSE WHERE NO CONSTITUTIONAL PRIOR EXIST, BECAUSE OF ERROR OF LAW.
4. DOES GUILTY PLEA JURISDICTIONAL CLAIM NON OFFENSE HAVE THIS COURT RETROACTIVE EFFECT DETERMINATION APPLICATION.
5. DO JURISDICTIONAL EMPOWER COURTS HAVE JURISDICTION TO ACCEPT OR MAINTAIN A GUILTY PLEA TO A NON OFFENSE.
6. DID U.S. 6TH CIRCUIT COURT OF APPEALS DEPART FROM ACCEPTED USUAL JUDICIAL PROCEEDING BY IGNORING PETITIONER'S 5TH, 14TH AM. JURISDICTIONAL CLAIM RE: SPECIFIC CONDUCT JURISDICTION SUBJECT MATTER CLAIM, REQUIRE THIS COURT SUPERVISORY POWER TO BE EXERCISE, RE: CERTIFICATE OF APPEALABILITY.

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the MICHIGAN APPEALS court appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was NOV. 8, 2017.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was NOV. 30, 2016. A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT IV (1791)

THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND PERSONS OR THINGS TO BE SEIZED.

AMENDMENT V (1791)

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME UNLESS ON PRESENTMENT OR INDICTMENT OF GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN IN ACTUAL SERVICE, IN TIME OF WAR OR PUBLIC DANGER; NOR ANY PERSON SUBJECT FOR THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMBS; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

AMENDMENT VI (1791)

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

AMENDMENT XIV (1868)

SECTION 1. ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGE OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATUTES

28 USC § 2243

ISSUANCE OF WRIT; RETURN; HEARING; DECISION. A COURT, JUSTICE OR JUDGE ENTERTAINING AN APPLICATION FOR A WRIT OF HABEAS CORPUS SHALL FORTHWITH AWARD THE WRIT OR ISSUE AN ORDER DIRECTING THE RESPONDENT TO SHOW CAUSE WHY THE WRIT SHOULD NOT BE GRANTED, UNLESS IT APPEARS FROM THE APPLICATION OR OR PERSON DETAINED IS NOT ENTITLED THERETO. (CITED IN APPENDIX D PAGE 2 OPINION & ORDER)

28 USC § 2243

APPEAL: (C) (1) UNLESS A CIRCUIT JUSTICE OR JUDGE ISSUE A CERTIFICATE OF APPEALABILITY, AN APPEAL MAY NOT BE TAKEN TO THE COURT OF APPEAL FROM (2) THE FINAL ORDER IN HABEAS CORPUS PROCEEDING IN WHICH THE DETENTION COMPLAINED OF ARISES OUT OF PROCESS ISSUED BY STATE COURT;

(STATUTORY PROVISION INVOLVED CONTINUE)

28 USC § 2253 (c)(2)

(c)(2) A CERTIFICATE OF APPEALABILITY MAY ISSUE UNDER PARAGRAPH (1) ONLY IF THE APPLICANT HAS MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT.

28 USC § 2254

STATE CUSTODY: REMEDIES IN FEDERAL COURTS: (2) THE SUPREME COURT, A JUSTICE THEREOF, A CIRCUIT JUDGE, OR A DISTRICT COURT SHALL ENTERTAIN APPLICATION FOR WRIT OF HABEAS CORPUS IN BEHALF OF A PERSON IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES.

28 USC § 2254 (d)(1)

(d) AN APPLICATION FOR A WRIT OF HABEAS CORPUS ON BEHALF OF PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF A STATE COURT SHALL NOT BE GRANTED WITH RESPECT TO ANY CLAIM THAT WAS ADJUDICATED ON THE MERITS IN STATE COURT PROCEEDINGS UNLESS THE ADJUDICATION OF THE CLAIM (1) RESULTED IN A DECISION CONTRARY TO, OR INVOLVED AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW, AS DETERMINED BY THE SUPREME COURT OF THE UNITED STATES;

STATEMENT OF THE CASE

PETITIONER ROBERT L. HARRINGTON, #171675 A HONORABLE DISCHARGED VETERAN WITH AN UNDISPUTED SEVERE MENTAL ILLNESS BACKGROUND FROM "1979" TO "2001" WITH NO CRIMINAL HISTORY PRIOR TO MENTAL ILLNESS. SEVERELY LACKING CRITICAL CRIMINAL LEGAL KNOWLEDGE. CURRENTLY CONFINED AT SAGINAW CORRECTIONAL FACILITY, ON JACKSON COUNTY CIRCUIT COURT. CASE NO. 85-039094-FC ATTEMPT MURDER MCL 750.83 JAN. 7, 1986 CONVICTION. 20 TO 40 YEARS SENTENCE ON MAR. 6, 1986. CASE INVOLVE FOUR (4) CLEAR RADICAL JURISDICTION DEFECTS AS DETERMINED BY UNITED STATES SUPREME COURT: (1) COMPLAINT / WARRANT CASE NO. C85-722 DATED MAY 16, 1985 OMITTED 4TH AM. PROBABLE CAUSE FINDING; (2) OMITTED REQUIRED 5TH AM. SPECIFIC CONDUCT CRIMINAL INFORMATION TO SUPPORT OFFENSE STATUTE CHARGE; (3) DEPRIVATION OF PETITIONER LIBERTY WITHOUT DUE PROCESS JURISDICTIONAL CRIMINAL INFORMATION 4TH, & 5TH AM. THEREBY, DENIED PETITIONER EQUAL PROTECTION OF CONSTITUTIONAL 4TH, 5TH, & 14TH AMENDMENTS AND STATE LAWS WHICH CONCUR MCL § 764.12; MCL § 780.653 WITHOUT: CONSTITUTIONAL FEDERAL DUE PROCESS JURISDICTION REQUIREMENTS SUBSTANCE CRIMINAL CONDUCT SPECIFIC INFORMATION, FOR SUBJECT MATTER JURISDICTION. THIS COMMON TYPE JACKSON COUNTY PRACTICE WITHOUT AFFIDAVIT, COMPLAINT / WARRANT IS DEVOID OF PROPER PERSONAL & SUBJECT MATTER DUE PROCESS JURISDICTION AFFECT THE ENTIRE COUNTY IN AN UNCONSTITUTIONAL WAY. (4) 6TH AM. VIOLATION WITHOUT SOME CERTAIN DETAIL PERCISE CONDUCT INFORMED NATURE & CAUSE INFO ACCUSATION NOT ONLY TO PREPARE PROPER DEFENSE BUT TO PROTECT AGAINST LATER SAME INCIDENT PROSECUTION. BY REASON OF MENTAL ILLNESS OF PETITIONER, DIRECT APPEAL NOT FILED. ON JUNE 14, 1991 FIRST RELIEF MOTION FROM JUDGMENT FILED. DENIED AUGUST 9, 1991. ON AUGUST 23, 2013 FILED JUNE 11, 1996 ABEYANCE MOTION FOR RELIEF FROM JUDGMENT. DENIED MARCH 23, 2015 BOTH MOTION TRIAL CASE NO. 85-039094-FC. ON APRIL 2, 2016 FILED STATE HABEAS CORPUS WRIT CHALLENGING JACKSON COUNTY CIRCUIT COURT JURISDICTION CONVICTION AND SENTENCE WITHOUT SPECIFIC CONDUCT OFFENSE ACCUSATION VIOLATION OF STATUTE LANGUAGE CHARGE MCL 750.83 AGAINST PETITIONER A NON-OFFENSE WITHOUT SUBJECT MATTER JURISDICTION FACTS CRIME INFO IN LENA WEE COUNTY CIRCUIT COURT CASE NO. 16-5554-AW, DENIED APRIL 19, 2016. ON OCT. 12, 2016 MICHIGAN COURT OF APPEALS CASE NO. 333393 PETITION APPEAL WAS DENIED ON NOV. 30, 2016. STATE S.T. REFUSE TO FILE PETITIONER'S JURISDICTION PETITION PER TIME PROCEDURE. ON APRIL 25, 2017 EASTERN DISTRICT OF MICHIGAN CASE NO. 4:17-CV-10385-LVP-BRG DENIED 28 U.S.C. § 2254 HABEAS CORPUS JURISDICTION PETITION, AND CERTIFICATE OF APPEALABILITY. ON NOV. 8, 2017 6TH. CIR. U.S. COURT OF APPEALS CASE NO. 17-1671 DENIED CERTIFICATE OF APPEALABILITY. PETITIONER NOW SEEK AS A HONORABLE DISCHARGE VETERAN PAUPER PETITION FOR WRIT OF HABEAS CORPUS, TO PROCEED WITHOUT PAYMENT OF FEES OR COURT COST OR FURNISHING SECURITY, ON JURISDICTION NON-OFFENSE CONDUCT DEFECT CLAIM AFFECTING SOUTHERN MICHIGAN COUNTIES. IN 1986 TRIAL COURT WAS WITHOUT JURISDICTION TO ACCEPT PETITIONER'S GUILTY PLEA TO A NON-OFFENSE SECOND HABITUAL OFFENDER UNDER MCL § 769.10 SENTENCE 20 TO 40 YEARS. BECAUSE PETITIONER WAS NEVER GUILTY OF A PRIOR 1983 CONSTITUTIONAL CONVICTION PLED TO MARCH 6, 1986, VACATED BY STATE COURT OF APPEALS DECEMBER 12, 1995 CASE NO. 188839 RE: TRIAL CASE NO. 82-003790 ADJUDICATED CONSTITUTIONALLY AN UNFAIR TRIAL MANIFEST INJUSTICE. JURISDICTION NON-OFFENSE ARE RETRO-actively APPLIED PURSUANT U. N. SUPREME COURT. SEE OFFENDER PROFILE, MICHIGAN

(STATEMENT OF THE CASE CONTINUE)

OFFENDER TRACKING INFORMATION SYSTEM ("OTIS"). JACKSON TRIAL COURT CASE NO. 85-039094-FC JAN. 7, 1986 IS FIRST RECORD CONVICTION. THUS, THE COURT'S ACCEPTANCE OF PETITIONER'S PLEA IS A DEFECTIVE JURISDICTIONAL ERROR ABUSE OF COURT'S DISCRETION. THE ABUSE RENDER PROCEEDINGS CONVICTION AND SENTENCES IRREGULAR AND INVALID FROM INCEPTION AND SHOULD BE REVERSED. (REQUEST ADJUDICATED - JUDICIAL NOTICE OF VACATED PRIOR 1983 CONVICTIONS MANIFEST - INJUSTICE UNFAIR TRIAL⁸ OPINION/ORDER ATTACH). THE U.S. 6TH CIR. COURT OF APPEALS DID NOT CONSIDER PETITIONER'S 5TH & 14TH AM. JURISDICTION SPECIFIC CONDUCT-SUBJECT MATTER CLAIM IN DENYING HIS PETITION FOR CERTIFICATE OF APPEALABILITY ADDRESS ONLY HIS 4TH AM PROBABLE CAUSE CLAIM, IS A DEPARTURE FROM ACCEPTED USUAL JUDICIAL PROCESS DENY EQUAL PROTECTION OF THE ACCEPTED USUAL JUDICIAL PROCEDURE, REQUIRE CORRECTION SUPERVISORY. BECAUSE OF JURISDICTION ERROR OF LAW CLAIM.

REASONS FOR GRANTING THE PETITION

1. THE STATE AND FEDERAL DISTRICT COURTS RULED CONTRARY TO THIS COURT AND CONFLICT WITH 2ND, 5TH, 6TH, 7TH, 8TH, 9TH, 10TH, 11TH, CIRCUITS USCOA RE: ESSENTIAL FACTS CONSTITUTING THE OFFENSE CHARGE JURISDICTIONAL ELEMENTS, AND FAILED TO APPRAISE PETITIONER OF NATURE AND CAUSE OF ACCUSATION DEVOID OF ANY SPECIFIC FACTS TO SUPPORT OFFENSE CHARGED MCL 750.83.

THE STATE AND FEDERAL DISTRICT COURT OPINION / ORDER RULED PETITIONER PROVIDED NO EVIDENCE TO SUPPORT JURISDICTIONAL DEFECT CLAIM OF 4TH, 5TH, 6TH, 14TH AM. CHALLENGE TO BRING PETITIONER INTO COURT TO ANSWER TO MCL 750.83 ASSAULT WITH INTENT TO MURDER CHARGE BROUGHT AGAINST HIM. BLACKLEDGE V PERRY, 417 U.S. 21, 91 S.Ct. 195 (1975) 417 U.S. AT 29-31 [FED. DIST. APPENDIX D AT 6-8; STATE APPENDIX B AT 1-2]. HOWEVER, THE LACK OF EVIDENCE AND NO AFFIDAVIT ON COMPLAINT / WARRANT CASE NO. C85-722 EXHIBIT A (ATTACH) PROVIDED ADEQUATE EVIDENCE STATE AUTHORITY LACKED SUBJECT MATTER JURISDICTIONAL ELEMENTS ESSENTIAL, WITHOUT GIVING ANY SPECIFIC INFO FACTS OF OFFENSE CHARGE, DID NOT FULLY APPRAISE PETITIONER OF NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM WITH REASONABLE CERTAINTY. HENCE, THE COMPLAINT C85-722 DATE 5/16/85 IS DEFECTIVE THOUGH IT FOLLOW THE LANGUAGE OF MCL 750.83 STATUTE. EVANS V U.S., 153 U.S. 584; 14 S.Ct. 934, 38 L.Ed 830 (1894) U.S. LEXIS 2206; MACKIN V U.S., 117 U.S. 348, 6 S.Ct. 777, 29 L.Ed. 909 (1886) U.S. 1847 AT [*350] [*778] [***910] BY JUSTICE GRAY :

CRIMINAL CODE OF 1909, SECTION 335 (COMP. ST. 10509) PROVIDE OFFENSE PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING 1 YEAR SHOULD BE DEEMED FELONIES, . . . AS THE LAW STANDS, ALL OFFENSES WHICH MAY BE PUNISH BY IMPRISONMENT EXCEEDING 1 YEAR MUST BE PROSECUTED BY PRESENTMENT, INDICTMENT, OR INFORMATION.

THUS, ALTHOUGH A COMPLAINT OR INDICTMENT NEED NOT BE PERFECT UNDER FEDERAL OR STATE LAW THE PROSECUTOR MUST PROVIDE SOME COMPETENT EVIDENCE TO SHOW THAT THE CHARGE OFFENSE ^{COMMITTED} HAS BEEN BY PETITIONER FOR JURISDICTIONAL SUBJECT MATTER TO BE ESTABLISH, OTHERWISE AS DISTINCTLY HELD IN MACKIN, Id BY SET, A CRIME PUNISHABLE BY IMPRISONMENT IN THE STATE PRISON OR PENITENTARY IS AN UNFAMOUS CRIME AND THE DEFENDANT CANNOT BE HELD TO ANSWER THE CHARGE. PETITIONER RESTRAINT IS CONSTITUTIONALLY ILLEGAL. U.S. V KRUIKSHANK, 92 U.S. 542; COMMONWEALTH V FILBURN, 119 MASS 297; 1876 MASS LEXIS 21; BRAYANT V U.S. 167 U.S. 104, 17 S.Ct. 744, 42 L.Ed 94; VALENTINE V KONTEN, 395 F.3d 626 (2005); 2005 U.S. LEXIS 1128; 2005 FED. APP. 00 35P (6TH CIR.); RUSSELL V U.S., 369 U.S. 749, 8 L.Ed. 240, 82 S.Ct. 1038 (1962). IN GRANTING VALENTINE THE WAY THE DISTRICT COURT RELIED ON RUSSELL, Id AT [631] BY SUPREME COURT PUT FORTH THE CRITERIA FOR SUFFICIENCY OF INDICTMENT IS TO BE MEASURED (1ST) WHETHER THE INDICTMENT CONTAINS THE ELEMENT OF THE OFFENSE INTENDED TO BE CHARGED, AND SUFFICIENTLY APPRAISES THE DEFENDANT OF WHAT HE MUST BE PREPARED [114] TO MEET; AND (2ND) IN CASE ANY OTHER PROCEEDINGS ARE TAKEN AGAINST HIM FOR A SIMILAR OFFENSE WHETHER THE RECORD SHOW WITH ACCURACY TO WHAT EXTENT HE MAY PLEAD A FORMER ACQUITTAL OR CONVICTION 369 U.S. AT 263-64. THUS AN INDICTMENT IS ONLY SUFFICIENT IF IT (1) CONTAINS THE ELEMENTS OF THE CHARGE OFFENSE, (2) GIVES THE DEFENDANT ADEQUATE NOTICE OF THE CHARGES, AND (3) PROTECTS THE DEFEND AGAINST DOUBLE JEOPARDY. WHILE THE FEDERAL RIGHTS TO A GRAND JURY [1160] INDICTMENT HAS NEVER BEEN FOUND TO BE INCORPORATED AGAINST THE STATES (CITE OMITTED) COURTS HAVE FOUND THAT THE DUE PROCESS RIGHTS ENUNCIATED IN RUSSELL, ARE REQUIRED NOT ONLY IN FEDERAL INDICTMENTS BUT ALSO IN STATE CRIMINAL CHARGES. SEE DEVONISH V KEANE, 19 F.3d 107; 108, 1994 U.S. APP. LEXIS

5374 (2ND CIR. 1994); FAWCETT V BABLITCH, 962 F.2d 617, 618 (7TH CIR. 1992); SEE ALSO ISAAC V GUIDER, 211 F.3d 1269, 2000 WL 571959, AT 4 (6TH CIR. 2000); PARKS V HARGETT, 1999 U.S. APP. LEXIS 5133, 1999 WL 157431, AT *3 (10TH CIR. 1999). PLAINLY STATED IN RUSSELL V U.S., 11 MN 9. "IT IS AN ELEMENTARY PRINCIPLE OF CRIMINAL PLEADING THAT WHERE THE DEFINITION OF AN OFFENSE INCLUDE GENERAL TERM, THE INDICTMENT SHOULD HAVE ALSO STATE THE PARTICULAR OF THE OFFENSE." MN 10. "AN INDICTMENT NOT FRAMED TO APPRAISE THE DEFENDANT WITH REASONABLE CERTAINTY OF THE NATURE OF THE ACCUSATION AGAINST HIM IS DEFECTIVE ALTHOUGH IT MAY FOLLOW THE LANGUAGE OF THE STATUTE." RULE 7 (C) (1) FED. R. CR. P. PROVIDES; "THE INDICTMENT OR THE INFORMATION MUST BE A CONCISE AND PLAIN DEFINITE WRITTEN STATEMENT OF THE ESSENTIAL FACTS CONSTITUTING THE OFFENSE CHARGE AND MUST BE SIGNED BY ATTORNEY FOR GOVERNMENT." BASED ON THIS COURT AND US COA 2ND, 6TH, 7TH, 9TH, AND 10TH CIRCUIT COURTS CITED AND CITED UNIDENTIFIED CIRCUIT COURTS REPEATED ADJUDICATION, THE STATE AND FEDERAL DISTRICT COURTS SHOULD HAVE GRANTED PETITIONER AN UNCONDITIONAL HABEAS CORPUS WRIT. BECAUSE PROSECUTION FOR STATE COMPLETELY FAIL TO ALLEGE ANY ESSENTIAL FACTS SHOWING PETITIONER COMMITTED THE CHARGE OFFENSE IN STATE COMPLAINT CASE NO. C85-722 DATED MAY 16, 1985 TO GIVE COURT SUBJECT MATTER JURISDICTION INFORMATION TO HOLD PETITIONER CONSTITUTIONALLY TO ANSWER THE CHARGE. REQUIRED OMITTED INFORMATION BY THE 5TH, 6TH & 14TH AMENDMENTS U.S. CONST. U.S. V BROWN, 752 F.3d 1344 (2014); MN 45 3231; ARTHUR V WARREN, WARREN CORRECTION INSTITUTION, 2012 U.S. DIST. LEXIS 39779 AT [*11]; MOVIEL V SMITH, 2009 U.S. DIST. LEXIS 122883; 3435, 2010 WL 148141 AT *13 (N.D. OHIO JAN. 12, 2010); COCHRAN V ESOLA, 67 F. 2d 91; 1933 U.S. APP. LEXIS 4368 (9TH CIR.); U.S. V CARLL, 105 U.S. 601, 612; 26 L. ED 1135; 1881 U.S. LEXIS 2164; 15 OTT 611.

IN SUMMARY

STATE PROSECUTOR IN COMPLAINT DID NOT PROVIDE ALL OF THE JURISDICTIONAL ELEMENT OF THE OFFENSE CHARGE MCL 750.83 ONLY ONE (1) ELEMENT: THE CITE LANGUAGE STATUTE OFFENSE CHARGE, WITHOUT ESSENTIAL FACTS ELEMENT NEXUS CONSTITUTING THE OFFENSE CHARGE NO CONSTITUTIONAL STATE CRIME HAS BEEN CHARGED TO ANSWER. A FATAL JURISDICTION DEFECT EXIST. U.S. V PRENTISS, 206 F.3d 960; 2000 U.S. APP. LEXIS 2718, 2000 COLO J.L.A.R. 1294; MCCOY V U.S., 266 F.3d 1245, 1248-80 (11TH CIR. 2001); U.S. V BROWN, 995 F.2d 1493 AT 1505 (10TH CIR. 1993); U.S. V DGT, 910 F.2d 1184, 1201 (14TH CIR. 1990); U.S. V CROCKETT, 812 F.2d 626, 626, 629 & N. 3 (10TH CIR. 1987); STINSON V CITY OF N.Y., 282 F.R.D. 360, 375-76, 2012 U.S. DIST. LEXIS 56748 (S.D. N.Y. 2012); U.S. V D'ANNA, 2015 U.S. DIST. 55903 (E.D. MICH).

REQUEST

FOR THE FOREGOING REASONS PETITIONER RESPECTFULLY REQUEST THIS COURT TO EXERCISE ITS JUDICIAL DISCRETION TO RESOLVE MICHIGAN STATE AND FEDERAL DISTRICT COURT DISAGREEMENTS AND CONFLICT WITH THIS COURT AND ALL THE CITED US COA CIRCUIT COURTS ON THIS IMPORTANT SPECIFIC JURISDICTION OFFENSE CHARGE, CONSTITUTIONAL LEGAL QUESTIONS, BY EXERCISING COURT'S SUPERVISORY POWER AND BRING HARMONY TO MICHIGAN'S COURTS DECISIONS WITH THIS COURT'S REPEATED DETERMINATION TO DATE SINCE THE (1800) HUNDREDS RELEVANT TO OFFENSE CHARGES ELEMENTS DEFECTS IN JURISDICTION, FOR CONSISTENCY RULING ON SAME AND SIMILAR LEGAL QUESTION, REQUEST IS MADE FOR CERTIORARI GRANT.

2. PETITIONER HAS A RIGHT TO BE FREE FROM A NON-OFFENSE SECOND HABITUAL GUILTY PLEA WHERE NO PRIOR EXIST, ERROR OF LAW. BECAUSE COURT HAS NO JURISDICTION TO ACCEPT A GUILTY PLEA TO A NON-OFFENSE WHICH HAS RETROACTIVE JURISDICTIONAL EFFECT AS DETERMINE BY THIS COURT IN U.S.V PETER, 310 F.3d 709 (11TH CIR. 2002).

BECAUSE PETITIONER WAS NEVER GUILTY OF A CONSTITUTIONAL PRIOR CONVICTION RE: 1983 DETROIT CONVICTIONS. AS CHARGED BY JACKSON COUNTY PROSECUTOR UNDER MCL 769.10 SUBSEQUENT FELONY. PETITIONER PLED GUILTY TO A NON-OFFENSE SUBSEQUENT FELONY WITHOUT A VALID FIRST CONSTITUTIONAL CONVICTION MARCH 5, 1986 AND SENTENCED 20 TO 40 YEARS AS A SECOND HABITUAL OFFENDER. PETITIONER'S "1983" CONVICTIONS WERE VACATED ON DECEMBER 12, 1995 BY STATE COURT OF APPEALS CASE NO. 188839 (ATTACH) RE: DETROIT TRIAL CASE NO. 82-003790 ADJUDICATED CONSTITUTIONAL MANIFEST INJUSTICE UNFAIR TRIAL. JACKSON COUNTY CIRCUIT COURT CASE NO. 85-039094-FC IS PETITIONER'S FIRST CONVICTION ON JANUARY 7, 1986 MCL 750.83/769.10 OFFENSE DATE MAY 12, 1985. MICHIGAN-OFFENDER TRACKING INFORMATION SYSTEM ("OTIS") UNDER 769.13 (6) A PRIOR CONVICTION ^{MUST} BE CONSTITUTIONALLY VALID TO ENHANCE SENTENCE. ("OTIS") INFO ATTACH. PETITIONER HAS NO VALID PRIOR CONSTITUTIONAL CONVICTIONS TO JAN. 7, 1986. THUS, JACKSON COURT MCL 750.83 CONVICTION IS NOT A SUBSEQUENT FELONY CONVICTION PLED GUILTY TO BY PETITIONER BUT THE FIRST CONVICTION WITHOUT A PRIOR CONVICTION VALID. JURISDICTIONAL ERROR IMPLICATES A COURT'S POWER TO ADJUDICATE THE MATTER BEFORE IT, SUCH ERROR CAN NEVER BE WAIVED BY PARTIES TO LITIGATION. THE DOCTRINE OF PROCEDURE DEFAULT DOES NOT APPLY. KEEL V U.S., 585 F.2d 110, 114 (5TH CIR. 1978) (ENBANC); U.S.V PETER, 310 F.3d 704*; 2002 U.S. APP. LEXIS 22442**; 15 FLA. L. WEEKLY FED. CM49 (11TH CIR.) ENBANC REHEARING. A COURT IS WITHOUT JURISDICTION TO ACCEPT A GUILTY PLEA TO "NON-OFFENSE" KEEL, Id AT 114; PETER, Id AT 117. THE OBJECTION BY PETITIONER THAT THE PROSECUTOR FAILED TO CHARGE A VALID OFFENSE IS NOT WAIVED BY HIS GUILTY PLEA, THE VIOLATION OF HIS RIGHT TO BE FREE OF PROSECUTION FOR NON-OFFENSE WILL BAR A CONVICTION EVEN IF "FACTUAL GUILT" HAS BEEN VALIDLY ESTABLISH THE ENTRY OF PETITIONER GUILTY PLEA DOES NOT ACT AS A WAIVER OF JURISDICTIONAL DEFECTS SUCH AS PROSECUTOR FAILURE TO CHARGE PETITIONER WITH A VALID PRIOR AND SUBSEQUENT FELONY OFFENSES, HIS GUILTY PLEA DOES NOT BAR REVERSAL OF HIS PLEA CONVICTION AND 20 TO 40 YEARS ENHANCED 769.10 SENTENCE. A REVIEW OF RECORD PLEA TO WILL REVEAL PROSECUTION RELIED ON NON-OFFENSE "1983" VACATED INVALID CONVICTIONS SENTENCE AT TIME OF PLEA. JURISDICTIONAL ERROR IS A FUNDAMENTAL DEFECT WHICH RENDER PROCEEDINGS IRREGULAR AND INVALID, WHEN A COURT WITHOUT JURISDICTION CONVICTION & SENTENCE FROM INCEPTION REMAIN VOID EVEN IF THE SENTENCE DIRECT FORCE IS FULLY SERVED, ALIKHINA V U.S., 200 F.3d 732, 734 (11TH CIR. 2000). THE ERROR OF LAW IN JURISDICTION IS AN ABUSE OF DISCRETION PER SE, AND THE DEFECT INHERENTLY RESULTS IN A COMPLETE MISARRIAGE OF JUSTICE. U.S.V ADDONIZIO, 442 U.S. 178, 185, 60 L.Ed 2 805, 99 S.Ct. 2235 (1979); LOUISVILLE & NASHVILLE RAILROAD CO. V MOTTLEY, 211 U.S. 149, 152, 53 L.Ed 126, 29 S.Ct. 42 (1908); BOUSLEE V U.S., 523 U.S. 614*; 118 S.Ct. 1604**/ 140 L.Ed 2d 828**/ 1978 U.S. LEXIS 3334 (8TH CIR.) CERT. WRIT 97 F.3d 284/REV. REMAND.; BISCHEL V U.S., 32 F.3d 259, 263, (7TH CIR. 1994) QUOTING - BORRE V U.S., 940 F.2d 215, 217 (7TH CIR. 1991); THIS COURT HAS DETERMINED A RETROACTIVE EFFECT IS APPLICABLE FOR GUILTY PLEA JURISDICTIONAL NON-OFFENSE CLAIM DISCOVERED YEARS AFTER CONVICTION OF GUILTY PLEA, AS IS PETITIONER'S CASE IN: CLEVELAND V U.S., 538 U.S. 12, 148 L.Ed 221, 121 S.Ct. 365 (5TH CIR. 2000) LEXIS 7436; U.S.V PETER, 310 F.3d, 709, (11TH CIR. 2002) AT 713-16.

THE STATE IGNORING THIS CONSTITUTIONAL DEFECTIVE JURISDICTIONAL NON-OFFENSE EVIDENCE IS A DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDING, AND FEDERAL DISTRICT COURT SANCTION OF THE STATE COURT DEPARTURE, PUT BOTH COURT IN CONFLICT WITH ALL THE CITED USCA CIRCUIT COURTS AND WITH THIS COURT NON-OFFENSE DETERMINATION AND ITS RETROACTIVE EFFECT APPLICATION. THIS IMPORTANT JURISDICTIONAL AND CONSTITUTIONAL SPECIFIC LEGAL QUESTION, REQUIRE THIS COURT SUPERVISORY POWER TO BRING MICHIGAN'S COURTS IN UNIFORMITY WITH THE COURT AND OTHER USCA CIRCUIT COURTS. FOR THESE REASONS PETITIONER RESPECTFULLY REQUEST THE COURT TO GRANT HIM A CERTIORARI WRIT.

3. THE U.S. 6TH CIRCUIT COURT OF APPEALS DEPARTED FAR FROM THE ACCEPTED USUAL JUDICIAL PROCEEDING BY IGNORING PETITIONER'S 5TH, 14TH AM. NON-ADDRESS OMITTED CHARGE ESSENTIAL FACTS CONSTITUTING THE OFFENSE, FOR CERTIFICATE OF APPEALABILITY REQUIRED BY RULE 7(C)(1) FED. R. CR. P. WHICH APPLY TO STATES CRIMINAL CHARGES.

ON NOV. 8, 2017 THE HONORABLE USCA 6TH CIRCUIT COURT DENIED MOVES FOR CERTIFICATE OF APPEALABILITY AND INFORMA PAUPERIS STATUS ON APPEAL FROM DISTRICT COURT JUDGMENT DENYING HIS PETITION WRIT OF HABEAS CORPUS UNDER 28 USC S 2254. RE: 1986 JULY CONVICTION MCL 750.83 / 769.10 SECOND HABITUAL ENHANCED 20 TO 40 YEARS SENTENCE. COA COURT ERRONEOUSLY STATED PETITIONER IS SERVING A FIRST DEGREE MURDER SENTENCE - NOT TRUE. OTHER CITED CONVICTIONS ARE ACCURATE. THESE CONVICTIONS ARE BEING CHALLENGED NOW. 6TH CIR. COA DENIED CERTIFICATE OF APPEALABILITY ON 4TH AM. STATUTE LIMITATION BAR. (APPENDIX E AT 4). CASE NO. 17-1671. BUT THE COURT BY NOT ADDRESSING COMPLETELY IGNORED PETITIONER'S 5TH, 14TH AM. JURISDICTIONAL ELEMENT ESSENTIAL FACTS OFFENSE CHARGE CLAIM. THE ELEMENTARY PRINCIPLE CRIMINAL PLEADING WHEN THE DEFINITION OF AN OFFENSE INCLUDE GENERAL TERM THE INDICTMENT (OR COMPLAINT) SHOULD ALSO STATE PARTICULAR OF OFFENSE. AS DETERMINE BY THIS COURT REPEATEDLY AN INDICTMENT OR COMPLAINT NOT FRAMED TO APPRAISED THE DEFENDANT WITH REASONABLE CERTAINTY OF NATURE OF ACCUSATION AGAINST HIM IS DEFECTIVE ALTHOUGH IT MAY FOLLOW THE LANGUAGE OF THE STATUTE, RULE 7(C)(1) FED. R. CR. P. PROVIDES: THE INDICTMENT OR INFORMATION MUST BE A PLAIN CONCISE AND DEFINITE WRITTEN STATEMENT OF THE ESSENTIAL FACTS CONSTITUTING THE OFFENSE CHARGED AND MUST BE SIGNED BY THE ATTORNEY FOR GOVERNMENT. RUSSELL V U.S., 369 U.S. 749, 8 L. Ed 2d 240, 82 S Ct. 1038, 1962 U.S. LEXIS 152206 (1962); VALENTINE V KONTEN, 395 F.3d 626; 2015 U.S. MP. LEXIS 1128; 2005 FED. MP. 6035 P (6TH CIR.) ACCORDING TO THE COURT AN INDICTMENT OR COMPLAINT IS NOT SUFFICIENT TO SET FORTH THE OFFENSE IN WORDS OF THE STATUTE ALONE, AS IN PETITIONER'S CASE WITHOUT JURISDICTIONAL SPECIFIC CONDUCT FACTS TO SUPPORT CHARGE OFFENSE. IN U.S. V EARLL, 105 U.S. 611, 612, 26 L. Ed. 1135; 1881 U.S. LEXIS 2164; MACKIN V U.S., 117 U.S. 348, 6 S Ct. 777, 2d L. Ed. 909; 1886 U.S. LEXIS 1887; EX PARTE WILSON, 114 U.S. 417 AT 425, 5 S Ct. 935, AT 939, 29 L. Ed. 89; 1885 U.S. LEXIS 1776; RUSSELL, Id. AT 416, 419, 420; VALENTINE, Id. AT 611; U.S. V BROWN, 752 F.3d 1344 (2014).

SUMMARY

THE USCA 6TH CIR. SHOULD HAVE GRANTED PETITIONER A CERTIFICATE OF APPEALABILITY PREDICATED ON JURISDICTIONAL DEFECT 5TH AM. U.S. CONST. & 14TH AM. U.S. CONST. CLAIM OMISSION IN COMPLAINT C85-722 OF ESSENTIAL FACTS TO SUPPORT STATE STATUTE CHARGE OF OFFENSE, AN ESSENTIAL JURISDICTIONAL OFFENSE ELEMENT.

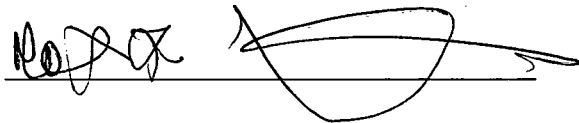
REQUEST

THE USCA 6TH CIR. DECISION NOV. 8, 2017 CONFLICT WITH COURT AND CITED USCA CIR. COURTS AND ITS OWN PAST DECISION PER 6TH CIR. CITING. ON THE IMPORTANT SPECIFIC LEGAL QUESTION WHAT CONSTITUTE JURISDICTIONAL COMPLETE OFFENSE CHARGE, REQUIRE COURT'S GUIDED SUPERVISORY POWER TO MAINTAIN CONSISTENCY WITH COURT AND OTHER USCA'S FOR THIS REASON RESPECTFUL REQUEST FOR COURT TO EXERCISE ITS DISCRETION TO GRANT WRIT OF CERTIORARI TO PETITIONER.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a horizontal line.

Date: JAN. 22, 2018